

CHAPTER 334

GOVERNMENT - STATE

HOUSE BILL 22-1381

BY REPRESENTATIVE(S) Titone and McKean, Soper, Amabile, Bacon, Bennett, Bird, Carver, Catlin, Cutter, Froelich, Hooton, Jodeh, Kennedy, Kipp, Lindsay, Lontine, McCormick, McLachlan, Michaelson Jenet, Ricks, Sirota, Snyder, Valdez D., Weissman, Benavidez, Bockenfeld, Boesenecker, Duran, Exum, McCluskie, Ortiz, Will;
also SENATOR(S) Winter and Woodward, Buckner, Coram, Danielson, Donovan, Ginal, Hansen, Kolker, Lee, Moreno, Pettersen, Rankin, Simpson.

AN ACT

CONCERNING THE CREATION OF A GEOTHERMAL ENERGY GRANT PROGRAM TO FACILITATE THE DEVELOPMENT OF GEOTHERMAL ENERGY RESOURCES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 24-38.5-118 as follows:

24-38.5-118. Geothermal energy grant program - creation - procedures - fund - report - definitions - repeal. (1) Legislative declaration. THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE DEVELOPMENT OF GEOTHERMAL ENERGY RESOURCES IS AN AVAILABLE AND PROMISING TECHNOLOGY IN THE TRANSITION FROM FOSSIL FUELS TO RENEWABLE ENERGY;

(b) THE DEVELOPMENT OF GEOTHERMAL ENERGY RESOURCES, INCLUDING FOR HEATING, COOLING, AND ELECTRICITY GENERATION, HAS THE POTENTIAL TO CREATE JOBS AND HELP ADDRESS MOBILITY FOR WORKERS IN ENERGY PRODUCTION AND TRANSMISSION, ESPECIALLY IN PIPELINE-RELATED WORK;

(c) BUILDING NEW GEOTHERMAL SYSTEMS IN HOMES AND BUSINESSES WILL PROVIDE A STABLE, PREDICTABLE COST TO CONSUMERS;

(d) STATE INVESTMENT IS IMPORTANT TO SUPPORT PUBLIC AGENCIES IN ENCOURAGING INVESTMENT IN GEOTHERMAL ENERGY FOR HOMES, BUILDINGS, AND ENERGY PRODUCTION;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) GEOTHERMAL ELECTRICITY GENERATION CAN PROVIDE OPPORTUNITIES FOR ZERO-POLLUTION, RENEWABLE ELECTRICITY GENERATION THAT IS NOT INTERMITTENT, INCREASING BASELOAD RELIABILITY FOR THE ELECTRIC GRID; AND

(f) GEOTHERMAL ELECTRICITY GENERATION MAY BE PAIRED WITH ELECTROLYZERS TO GENERATE HYDROGEN FROM WATER, PROVIDING ADDITIONAL ECONOMIC OPPORTUNITIES AND ZERO-POLLUTION FUELS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "FUND" MEANS THE GEOTHERMAL ENERGY GRANT FUND CREATED IN SUBSECTION (7) OF THIS SECTION.

(b) "GRANT PROGRAM" MEANS THE GEOTHERMAL ENERGY GRANT PROGRAM CREATED IN SUBSECTION (3) OF THIS SECTION.

(c) "OFFICE" MEANS THE COLORADO ENERGY OFFICE.

(3) **Creation of grant program.** THERE IS HEREBY CREATED WITHIN THE OFFICE THE GEOTHERMAL ENERGY GRANT PROGRAM TO PROVIDE GRANTS TO BUILDING OWNERS, DEVELOPERS, LOCAL GOVERNMENTS, GEOTHERMAL INSTALLERS, CONTRACTORS, COMMUNITIES, GAS OR ELECTRIC SERVICE PUBLIC UTILITIES, OR OTHER ENTITIES APPROVED BY THE OFFICE FOR:

(a) THE DEVELOPMENT OF GEOTHERMAL ELECTRICITY GENERATION;

(b) THE INSTALLATION OF GEOTHERMAL EQUIPMENT FOR USE AS THE PRIMARY HEATING OR COOLING SYSTEMS IN NEW CONSTRUCTION OR TO RETROFIT EXISTING BUILDINGS; OR

(c) THE DEVELOPMENT OF COMMUNITY THERMAL SYSTEMS THAT ARE USED IN NEW CONSTRUCTION OR TO RETROFIT EXISTING BUILDINGS.

(4) **Grants - limitations - qualifications.** THE GRANT PROGRAM CONSISTS OF THREE TYPES OF GRANTS:

(a) THE SINGLE-STRUCTURE GEOTHERMAL GRANT, WHICH IS AWARDED TO APPLICANTS THAT ARE CONSTRUCTING A NEW BUILDING, INCLUDING A SINGLE-FAMILY OR MULTIFAMILY RESIDENCE, AND THAT ARE INSTALLING A GEOTHERMAL SYSTEM FOR USE AS THE PRIMARY HEATING AND COOLING SYSTEM FOR THE BUILDING. A SINGLE-STRUCTURE GEOTHERMAL GRANT IS SUBJECT TO THE FOLLOWING LIMITATIONS AND QUALIFICATIONS:

(I) A DEVELOPER OR GEOTHERMAL INSTALLER IS ELIGIBLE FOR GRANTS FOR THE CONSTRUCTION OF NO MORE THAN ONE HUNDRED RESIDENTIAL BUILDINGS;

(II) COMMERCIAL BUILDINGS AND STATE AND LOCAL GOVERNMENT BUILDINGS THAT ARE CONSTRUCTED USING GRANT MONEY MUST MEET THE STANDARDS OF THE 2021 INTERNATIONAL ENERGY CONSERVATION CODE, OR SUBSEQUENT EDITION OF THE CODE;

(III) DEVELOPERS, GEOTHERMAL INSTALLERS, OR COMMERCIAL BUILDING OWNERS THAT APPLY FOR A GRANT MUST ATTEST THAT THEY WILL USE LICENSED PLUMBING OR MECHANICAL CONTRACTORS THAT HAVE AN APPRENTICESHIP PROGRAM, AS DEFINED IN SECTION 8-83-308 (3)(a);

(IV) THE OFFICE SHALL DETERMINE THE AMOUNT OF EACH GRANT BASED ON PER-TON HEATING CAPACITY AS FOLLOWS; EXCEPT THAT THE OFFICE MAY CHANGE A GRANT AWARD AMOUNT AFTER THE FIRST YEAR IF THE OFFICE DETERMINES THAT CHANGES ARE NECESSARY TO ADVANCE GEOTHERMAL DEVELOPMENT:

(A) A NONRESIDENTIAL BUILDING CONSTRUCTED BY A FOR-PROFIT ENTITY QUALIFIES FOR UP TO TWO THOUSAND DOLLARS PER TON OF HEATING CAPACITY;

(B) A NONRESIDENTIAL BUILDING CONSTRUCTED BY A NONPROFIT ENTITY QUALIFIES FOR UP TO THREE THOUSAND DOLLARS PER TON OF HEATING CAPACITY;

(C) A MULTIFAMILY RESIDENCE CONSTRUCTED BY A FOR-PROFIT ENTITY QUALIFIES FOR UP TO TWO THOUSAND DOLLARS PER TON OF HEATING CAPACITY;

(D) A MULTIFAMILY RESIDENCE CONSTRUCTED BY A NONPROFIT ENTITY QUALIFIES FOR UP TO THREE THOUSAND DOLLARS PER TON OF HEATING CAPACITY; AND

(E) A SINGLE-FAMILY RESIDENCE, INCLUDING A RESIDENCE WITHIN A TOWNHOME OR CONDOMINIUM BUILDING, QUALIFIES FOR TWO THOUSAND DOLLARS PER TON OF HEATING CAPACITY; AND

(V) THE GRANTS ARE SUBJECT TO THE FOLLOWING LIMIT ON THE NUMBER OF TONS OF HEATING CAPACITY THAT QUALIFY A BUILDING FOR A GRANT; EXCEPT THAT THE OFFICE MAY CHANGE THE TONNAGE AMOUNT AFTER THE FIRST YEAR IF THE OFFICE FINDS THAT MEETING MARKET DEMANDS REQUIRES THE CHANGE:

(A) A GRANT FOR A SINGLE-FAMILY RESIDENCE IS LIMITED TO FIVE TONS; AND

(B) A GRANT FOR A NONRESIDENTIAL BUILDING IS LIMITED TO ONE HUNDRED TONS;

(b) THE COMMUNITY DISTRICT HEATING GRANT, WHICH IS AWARDED TO SUPPORT GROUND-SOURCE, WATER-SOURCE, OR MULTISOURCE THERMAL SYSTEMS THAT SERVE MORE THAN A SINGLE BUILDING. APPLICANTS MAY APPLY FOR GRANTS FOR A SCOPING STUDY, A DETAILED DESIGN STUDY, PROJECTS, OR A COMBINATION OF THESE OPTIONS. TEAMS CONSISTING OF BUILDING OWNERS, GEOTHERMAL INSTALLERS, PUBLIC UTILITIES, POLITICAL SUBDIVISIONS OF COLORADO, CONSULTANTS, DEVELOPERS, OR OTHER ENTITIES APPROVED BY THE OFFICE ARE ELIGIBLE TO SUBMIT A PROPOSAL FOR A SCOPING STUDY OR A DETAILED DESIGN STUDY. TO QUALIFY FOR A GRANT FOR THE PROJECT, AN APPLICANT MUST SUCCESSFULLY COMPLETE A STUDY AND SHOW PROOF OF A VIABLE PROJECT. A COMMUNITY DISTRICT HEATING GRANT IS SUBJECT TO THE FOLLOWING LIMITATIONS AND QUALIFICATIONS:

(I) UP TO ONE HUNDRED THOUSAND DOLLARS PER PROJECT TO CONDUCT A

SCOPING STUDY TO DETERMINE IF A COMMUNITY THERMAL SYSTEM WOULD HELP LOWER GREENHOUSE GASEMISSIONS AND PROVIDE A REASONABLE-COST APPROACH TO HEATING AND COOLING A GROUP OF BUILDINGS;

(II) UP TO FIVE HUNDRED THOUSAND DOLLARS PER PROJECT TO PERFORM A DETAILED DESIGN STUDY EVALUATING ISSUES, INCLUDING THE FINANCIAL AND LEGAL RESPONSIBILITIES, OF THE BUILDING OWNERS THAT WISH TO JOIN THE COMMUNITY THERMAL SYSTEM; AND

(III) UP TO FIVE HUNDRED THOUSAND DOLLARS FOR THE INSTALLATION OF A COMMUNITY DISTRICT GEOTHERMAL PROJECT THAT SERVES MORE THAN ONE BUILDING FROM A SINGLE GEOTHERMAL LOOP, SUBJECT TO THE FOLLOWING:

(A) THE OFFICE MAY AWARD A GRANT OF UP TO FIFTY PERCENT OF THE FIRST MILLION DOLLARS OF THE COSTS OF THE PROJECT; AND

(B) A BUILDING OWNER, LOCAL GOVERNMENT, DEVELOPER, UTILITY SERVING THE ADDRESSES, OR GEOTHERMAL INSTALLER SHALL NOT APPLY FOR MORE THAN TWO GRANTS FOR PROJECT INSTALLATION IN A SINGLE YEAR.

(c) THE GEOTHERMAL ELECTRICITY GENERATION GRANT, WHICH IS AWARDED TO SUPPORT THE DEVELOPMENT OF GEOTHERMAL ELECTRICITY GENERATION AND PROJECTS THAT PAIR GEOTHERMAL ELECTRICITY GENERATION WITH ELECTROLYZERS FOR THE PRODUCTION OF HYDROGEN FROM GEOTHERMAL GENERATION. A PERSON MAY APPLY FOR MORE THAN ONE COST-MATCHING GRANT IN A YEAR. A GEOTHERMAL ELECTRICITY GENERATION GRANT IS SUBJECT TO THE FOLLOWING LIMITATIONS AND QUALIFICATIONS:

(I) LOCAL GOVERNMENTS, CORPORATIONS, AND GAS OR ELECTRIC SERVICE PUBLIC UTILITIES ARE ELIGIBLE TO APPLY FOR AND RECEIVE THE GRANT;

(II) FOR APPLICATIONS FOR A GRANT TO HELP FUND A STUDY TO IDENTIFY AND EXPLORE RESOURCES THAT MAY BE SUITABLE FOR GEOTHERMAL ELECTRICITY GENERATION, COSTING UP TO ONE MILLION DOLLARS, THE OFFICE MAY AWARD A GRANT OF UP TO FIFTY PERCENT OF THE STUDY COST; EXCEPT THAT, IF THE PROJECT INCLUDES THE PRODUCTION OF HYDROGEN FROM ELECTRICITY GENERATED USING GEOTHERMAL ENERGY, THE OFFICE MAY AWARD A GRANT OF UP TO SIXTY PERCENT OF THE STUDY COST;

(III) FOR APPLICATIONS FOR A GRANT TO HELP FUND A STUDY TO IDENTIFY AND EXPLORE RESOURCES THAT MAY BE SUITABLE FOR GEOTHERMAL ELECTRICITY GENERATION OR HYDROGEN GENERATION FROM ELECTRICITY GENERATED USING GEOTHERMAL ENERGY, COSTING MORE THAN ONE MILLION DOLLARS, THE OFFICE MAY AWARD A GRANT OF UP TO FIVE HUNDRED THOUSAND DOLLARS PER PROJECT; AND

(IV) FOR PROJECTS THAT CONCERN AN IDENTIFIED POTENTIAL GEOTHERMAL RESOURCE BUT NEED CONFIRMATION THROUGH DRILLING AND TESTING OR THAT ARE SEEKING TO DEVELOP A PROJECT GENERATION SITE:

(A) THE OFFICE MAY AWARD A GRANT OF UP TO FIFTY PERCENT OF THE FIRST

MILLION DOLLARS OF THE COSTS OF THE PROJECT;

(B) THE OFFICE MAY AWARD UP TO FIVE HUNDRED THOUSAND DOLLARS PER PROJECT IN ADDITION TO THE AMOUNT AWARDED IN SUBSECTION (4)(c)(IV)(A) OF THIS SECTION; AND

(C) A DEVELOPER MAY APPLY FOR NO MORE THAN TWO GRANTS PER YEAR.

(5) **Application.** TO RECEIVE A GRANT, A PERSON MUST SUBMIT AN APPLICATION TO THE OFFICE IN ACCORDANCE WITH THE POLICIES AND PROCEDURES SPECIFIED BY THE OFFICE.

(6) **Use of grants.** A GRANTEE SHALL NOT USE THE MONEY RECEIVED THROUGH THE GRANT PROGRAM FOR ANY PURPOSE THAT IS NOT SPECIFIED IN SUBSECTION (4) OF THIS SECTION OR IN THE GRANT APPLICATION. IF A GRANTEE USES GRANT MONEY FOR ANY OTHER PURPOSE, THE GRANTEE IS SUBJECT TO A CIVIL ACTION TO RECOVER THE ENTIRE AMOUNT OF THE GRANT AWARD OR THE PORTION OF THE GRANT AWARD USED FOR THE OTHER PURPOSE.

(7) **Fund.** (a) (I) THE GEOTHERMAL ENERGY GRANT FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(II) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(III) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE OFFICE TO IMPLEMENT THIS SECTION.

(b) GRANTS MADE UNDER THIS SECTION ARE PAID OUT OF THE FUND.

(c) (I) WITHIN FIVE BUSINESS DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE TREASURER SHALL TRANSFER TWELVE MILLION DOLLARS FROM THE GENERAL FUND TO THE FUND.

(II) THIS SUBSECTION (7)(c) IS REPEALED, EFFECTIVE JULY 1, 2023.

(8) **Administration.** (a) THE OFFICE SHALL ADMINISTER THE GRANT PROGRAM, AWARD GRANTS AS PROVIDED IN THIS SECTION, AND DEVELOP POLICIES AND PROCEDURES AS NECESSARY TO IMPLEMENT THE GRANT PROGRAM.

(b) THE OFFICE SHALL AWARD GRANTS FROM THE FUND IN ACCORDANCE WITH THE FOLLOWING PARAMETERS:

(I) UP TO FORTY PERCENT OF THE TOTAL MONEY IN THE FUND MAY BE AWARDED THROUGH GRANTS TO SUPPORT THE DEVELOPMENT OF GEOTHERMAL ELECTRICITY GENERATION AND RESOURCE DEVELOPMENT, WHICH MAY INCLUDE HYDROGEN GENERATION PRODUCED FROM GEOTHERMAL ENERGY;

(II) UP TO EIGHTY PERCENT OF THE TOTAL MONEY IN THE FUND MAY BE AWARDED AS SINGLE-STRUCTURE GEOTHERMAL GRANTS, AND ONE-FOURTH OF THE GRANT

MONEY AWARDED UNDER THIS SUBSECTION (8)(b)(II) MUST BE AWARDED TO ELIGIBLE ENTITIES FROM OR PROJECTS IN LOW-INCOME, DISPROPORTIONATELY IMPACTED, OR JUST TRANSITION COMMUNITIES, AS THOSE COMMUNITIES ARE DEFINED BY THE OFFICE; AND

(III) UP TO TWENTY-FIVE PERCENT OF THE TOTAL MONEY IN THE FUND MAY BE AWARDED AS COMMUNITY DISTRICT HEATING GRANTS, WHICH MAY INCLUDE:

(A) SINGLE-OWNER CAMPUSES;

(B) MEDICAL CAMPUSES;

(C) RESIDENTIAL CAMPUSES;

(D) MULTI-OWNER NODES; AND

(E) PUBLIC OR PRIVATE COLLEGE OR UNIVERSITY CAMPUSES.

(c) THE OFFICE SHALL DEVELOP AND APPLY CRITERIA FOR EVALUATING AND AWARDED GRANT APPLICATIONS THAT:

(I) PRIORITIZE PROJECTS IN LOW-INCOME, DISPROPORTIONATELY IMPACTED, OR JUST TRANSITION COMMUNITIES; AND

(II) MAXIMIZE THE NUMBER OF ADDITIONAL PROJECTS THAT WOULD OTHERWISE NOT OCCUR WITHOUT THE GRANT MONEY.

(9) **Reporting.** (a) EACH GRANTEE SHALL SUBMIT AN ANNUAL REPORT TO THE OFFICE FOR TWO YEARS FOLLOWING RECEIPT OF A GRANT AWARD. THE OFFICE SHALL DETERMINE THE CONTENTS OF THE REPORT.

(b) ON OR BEFORE FEBRUARY 1, 2024, AND ON OR BEFORE FEBRUARY 1 EACH YEAR THEREAFTER THROUGH FEBRUARY 1, 2026, THE OFFICE SHALL SUBMIT A REPORT TO THE TRANSPORTATION AND ENERGY COMMITTEE OF THE SENATE AND THE ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE, ON THE GEOTHERMAL ENERGY GRANT PROGRAM. AT A MINIMUM, THIS REPORT MUST INCLUDE:

(I) THE TOTAL AMOUNT OF GRANT MONEY AWARDED IN THE PRECEDING CALENDAR YEAR;

(II) THE TOTAL NUMBER OF GRANTS AWARDED IN THE PRECEDING CALENDAR YEAR, INCLUDING THE AMOUNT OF EACH GRANT;

(III) THE TOTAL AMOUNT OF GRANT MONEY AWARDED TO EACH GRANTEE IN THE PRECEDING CALENDAR YEAR;

(IV) THE TOTAL AMOUNT OF MATCHING FUNDS THAT GRANTEES PROVIDED TO RECEIVE A GRANT;

(V) THE PERCENTAGE OF THE TOTAL AMOUNT OF GRANT MONEY AWARDED IN THE

PRECEDING CALENDAR YEAR THAT WAS AWARDED AS EACH TYPE OF GRANT DESCRIBED IN THIS SECTION;

(VI) THE PERCENTAGE OF THE TOTAL AMOUNT OF GRANT MONEY AWARDED IN THE PRECEDING CALENDAR YEAR THAT WAS AWARDED TO OR FOR PROJECTS IN LOW-INCOME, DISPROPORTIONATELY IMPACTED, OR JUST TRANSITION COMMUNITIES; AND

(VII) TO THE EXTENT AVAILABLE, THE EFFECTS OF THE GRANTS ON GAS USE, ELECTRICITY USE, EMISSIONS, AND ENERGY COSTS.

(c) THIS SUBSECTION (9)(c) AND SUBSECTION (9)(b) OF THIS SECTION ARE REPEALED, EFFECTIVE JULY 1, 2026.

(10) TO THE EXTENT THAT A GAS OR ELECTRIC SERVICE UTILITY CONTRIBUTES TO A PROJECT OR PARTNERS WITH AN ELIGIBLE ENTITY UNDERTAKING A PROJECT AWARDED UNDER THE GRANT PROGRAM, THE UTILITY MAY COUNT MASS-BASED EMISSIONS REDUCTIONS ASSOCIATED WITH THE PROJECT TOWARD COMPLIANCE WITH THE REQUIREMENTS IMPOSED BY:

(a) RULES PROMULGATED UNDER SECTION 25-7-105 (1)(e)(X.7);

(b) SECTION 40-3.2-108 (3)(b); OR

(c) ANY SIMILAR GREENHOUSE GAS EMISSION REDUCTION PROGRAM OR REQUIREMENT IMPOSED BY RULE OR STATUTE.

SECTION 2. In Colorado Revised Statutes, 24-75-402, **add** (5)(ww) as follows:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions - definitions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(ww) THE GEOTHERMAL ENERGY GRANT FUND CREATED IN SECTION 24-38.5-118 (7).

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 2, 2022